

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**VOTER REFERENCE
FOUNDATION, LLC,**

Plaintiff,

v.

**RAÚL TORREZ, in his official
capacity as New Mexico Attorney
General;**

Case No: 1:22-cv-0222 JB-KK

and

**MAGGIE TOULOUSE OLIVER, in
her official capacity as Secretary
of State of New Mexico,**

Defendants.

**DEFENDANTS' SUPPLEMENTAL BRIEFING
ON NATIONAL VOTER REGISTRATION ACT RECORDS**

Defendants, by order of the Court, hereby provides their Supplemental Briefing on the matter of National Voter Registration Act (NVRA) records. In *Defendants' Motion for Summary Judgment*, Defendants argued that 52 U.S.C. § 20507(i)(1) of the NVRA does not create an unqualified right of access to state voter files. *See* ECF No. 121, at 21-26. The Court has requested Defendants to supply information as to what kinds of records to which the NVRA does create a right of public inspection. Defendants proffer the following list of the categories of records

and the types of documents that may be obtained under the NVRA within those categories.

Category 1: List Maintenance Procedures. This category includes documents relevant to Secretary of State programs and procedures to maintain accurate, up-to-date voter lists.

- Relevant state statutory provisions
- Relevant federal statutory provisions
- Administrative rules related to the following subjects:
 - Voter registration qualification requirements
 - Voter registration methods
 - Voter registration processing
 - Election administration duties
 - Voter registration application review process
 - Voter registration update process
 - Voter registration record process and maintenance
 - Voter records review/updates/corrections
 - Voter registration transfers
 - Voter registration cancelations
 - Automatic voter registration
 - Online voter registration
 - Same day voter registration
 - Felon registration restoration
 - Agency voter registration
 - Agency voter registration maintenance
 - Voter cancellation process
 - Voter record systems
 - Voter data maintenance
- Relevant vendor contracts
- Relevant vendor communications
- Relevant vendor bids
- Relevant requests for proposals
- Communication with election administrators
- Election administration training materials related to voter list maintenance
- Legislative materials related to voter list maintenance
 - Final legislation

- Draft legislation
- Legislative analysis/research
- Legislative Fiscal Impact Reports

Category 2: SOS Voter Cancellation Program. This category includes documents relevant to Secretary of State procedures and policies that enable voters to cancel their registration with the Secretary of State or county clerks.

- County guidance
 - Required forms
- County communication
- County correspondence
- Email communication
- County training materials – statutory focused
- County training materials – system focused
- County training materials – election board focused
- Voter communication
- Voter outreach materials
- Voter education materials
- Board of Registration Materials
 - Organized chronologically and by county
 - Board of Registration appointment materials
 - List of Board Members
 - List of voters subject to voter cancellation
 - Meeting minutes

Category 3: Same-Day Registration. This category includes documents relevant to Secretary of State procedures and policies that enable voters to register to vote on the same day that they cast a ballot.

- County guidance
 - Required forms
- County communication
- County correspondence
- Email communication
- County training materials – statutory focused
- County training materials – system focused

- County training materials – election board focused
- Voter communication
- Voter outreach materials
- Voter education materials

Category 4: Automatic Voter Registration. This category includes documents relevant to Secretary of State procedures and policies that automatically register New Mexico citizens to vote when conducting transactions with the New Mexico Motor Vehicle Division

- County guidance
 - Required forms
- County communication
- County correspondence
- Email communication
- County training materials – statutory focused
- County training materials – system focused
- County training materials – election board focused
- Voter communication
- Voter outreach materials
- Voter education materials

Category 5: Online Voter Registration. This category includes documents relevant to Secretary of State procedures and policies that allow voters to register to vote or update their voter registration through the State's online portal.

- County guidance
 - Required forms
- County communication
- County correspondence
- Email communication
- County training materials – statutory focused
- County training materials – system focused
- County training materials – election board focused
- Voter communication
- Voter outreach materials
- Voter education materials

Category 6: Electronic Voter Registration Information Center (ERIC). This category includes documents relevant to Secretary of State procedures and policies concerning New Mexico membership in ERIC. ERIC member states share information with one another in order to maintain more accurate, up-to-date voter rolls.

- County guidance
 - Required forms
- County communication
- County correspondence
- Email communication
- County training materials – statutory focused
- County training materials – system focused
- County training materials – election board focused
- Voter communication
- Voter outreach materials
- Voter education materials

Category 7: Felon Registration Restoration. This category includes documents relevant to Secretary of State procedures and policies that allow former felons to regain voting rights.¹

- County guidance
 - Required forms
- County communication
- County correspondence
- Email communication
- County training materials – statutory focused
- County training materials – system focused
- County training materials – election board focused
- Voter communication
- Voter outreach materials

¹ State law concerning felon voting was amended by the 2023 New Mexico Legislative Session. New procedures and policies will be implemented to give effect to the amended statute. *See* 2023 N.M. Laws, ch. 84, § 6 (to be codified at NMSA 1978, Sec. 1-4-27.1) (taking effect July 1, 2023).

- Voter education materials

Category 8: Voter Registration Agencies. This category includes documents relevant to Secretary of State procedures and policies that allow government agencies to serve as a point of voter registration.

- County guidance
 - Required forms
- County communication
- County correspondence
- Email communication
- County training materials – statutory focused
- County training materials – system focused
- County training materials – election board focused
- Voter communication
- Voter outreach materials
- Voter education materials

Category 9: Voter Registration Agents. This category includes documents relevant to Secretary of State procedures and policies to enable citizens to become qualified voter registration agents to register others to vote.

- County guidance
 - Required forms
- County communication
- County correspondence
- Email communication
- County training materials – statutory focused
- County training materials – system focused
- County training materials – election board focused
- Voter communication
- Voter outreach materials
- Voter education materials

Respectfully submitted,

By: /s/ Jeff Dan Herrera
Mark W. Allen

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CERTIFICATE OF SERVICE

I certify that on June 30, 2023, I filed and served the foregoing on counsel of record for all parties via the CM/ECF system.

/s/ Jeff Dan Herrera